

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 369 of 1998

to

CIVIL REVISION APPLICATION No 414 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BHIKHABHAI KACHRABHAI PATEL

Versus

JAYANTIBHAI KESHAVALAL PATEL

Appearance:

MR MC BHATT for Petitioner

MR MUKESH R SHAH for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 16/11/98

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. One of the contentions raised by the learned counsel for the defendant-petitioner is that the day on

which the amendment application has been filed and the same has been granted by the Court, the enhanced claim of compensation sought to be made in the plaint by this amendment has become barred by limitation.

3. However, I do not consider it to be appropriate to decide this issue on merits as the learned trial court has only granted amendment, meaning thereby, permitted the plaintiff-respondent to incorporate this claim in the plaint which does not deprive the defendant-petitioner to raise all the points in written statement to be filed in response to the amended plaint. By way of clarification, it is hereby observed that the defendant-petitioner is entitled to raise in the written statement the plea of limitation and jurisdiction also. In case these pleas are taken then the learned trial court will decide the same in accordance with law. Subject to the aforesaid observations, these civil revision applications are dismissed, rule discharged with no order as to costs.

zgs/-